

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Criminal Action No.
)	08-00174-01-CR-W-ODS
FREDERICK PENDLETON,)	
)	
Defendant.)	

**MEMORANDUM OF MATTERS DISCUSSED AND
ACTION TAKEN AT PRETRIAL CONFERENCE**

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on October 22, 2008. Defendant Frederick Pendleton appeared in person and with retained counsel Donald L. Williams. The United States of America appeared by Assistant United States Attorney Bruce Clark.

I. BACKGROUND

On June 25, 2008, an indictment was returned charging defendant with possessing a firearm after having been convicted of a felony, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a).

The following matters were discussed and action taken during the pretrial conference:

II. TRIAL COUNSEL

Mr. Clark announced that he will be the trial counsel for the government. The case agent to be seated at counsel table is Detective Chris Gilio, Kansas City, Missouri, Police Department.

Mr. Williams announced that he will be the trial counsel for defendant Frederick Pendleton.

III. OUTSTANDING MOTIONS

There are no pending motions in this case.

IV. TRIAL WITNESSES

Mr. Clark announced that the government intends to call 6 witnesses without stipulations or 4 witnesses with stipulations during the trial.

Mr. Williams announced that defendant Frederick Pendleton intends to call 1 witness during the trial. The defendant may testify.

V. TRIAL EXHIBITS

Mr. Clark announced that the government will offer approximately 8 exhibits in evidence during the trial.

Mr. Williams announced that defendant Frederick Pendleton will offer no exhibits in evidence during the trial.

VI. DEFENSES

Mr. Williams announced that defendant Frederick Pendleton will rely on the defense of general denial.

VII. POSSIBLE DISPOSITION

Mr. Williams stated this case is probably not for trial.

VIII. STIPULATIONS

Stipulations are likely as to prior felony conviction and interstate nexus of the firearm.

IX. TRIAL TIME

Counsel were in agreement that this case will take 1 day to try.

X. EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS

The U. S. Magistrate Judge ordered:

That, in addition to the requirements of the Stipulations and Orders filed July 23, counsel for each party file and serve a list of exhibits he intends to offer in evidence at the trial of this case on the form entitled Exhibit Index and have all available exhibits premarked using the stickers provided by the Clerk of Court by October 22, 2008;

That counsel for each party file and serve requested jury voir dire examination questions by or before noon, Wednesday, October 29, 2008;

That counsel for each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions¹ by or before noon, Wednesday, October 29, 2008. Counsel are requested to provide proposed jury instructions in both hard copy form, as required by Local Rule 51.1, and by e-mail to the trial judge's courtroom deputy.

XI. UNUSUAL QUESTIONS OF LAW

No motions in limine are anticipated. There are no unusual questions of law.

XII. TRIAL SETTING

All counsel and the defendant were informed that this case will be listed for trial on the joint criminal jury trial docket which commences on November 3, 2008.

/s/ Robert E. Larsen
ROBERT E. LARSEN
U. S. Magistrate Judge

¹Counsel in all cases assigned to be tried before Chief Judge Fernando Gaitan, Jr., as reflected in the trial letter which will be prepared by Judge James England, shall meet and prepare a packet of agreed proposed jury instructions to be submitted to Judge Gaitan and e-mailed to marylynn_shawver@mow.uscourts.gov and rhonda_enss@mow.uscourts.gov by Friday, September 26, 2008. To the extent there are disagreements to certain instructions, each attorney shall tab and submit his or her preference on those instructions. **The instructions shall be listed in the order they are to be given.**

Kansas City, Missouri
October 22, 2008

cc: The Honorable Ortrie Smith
Mr. Bruce Clark
Mr. Donald Williams
Mr. Jeff Burkholder